

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)	
)	
Telecommunications Relay Services,)	CC Docket No. 98-67
and Speech-to-Speech Services for)	
Individuals with Hearing and Speech)	CG Docket No. 03-123
Disabilities)	
)	

COMMENTS
BY ULTRATEC, INC., SPRINT CORPORATION,
AND HAMILTON RELAY, INC.

I. Introduction

On June 17, 2003, the Federal Communications Commission (FCC) added three-way calling to its list of mandatory minimum TRS features, and set the new mandate to take effect on February 24, 2004.¹ On December 11, 2003, Ultratec, Inc. and Sprint Corporation (Sprint) jointly submitted a petition to the Commission seeking clarification that CapTel services were compliant with the FCC's new three-way calling mandate so long as these services handled three-way calls, regardless of the actual method used to set up these calls. On February 24, 2004, in response to this and other similar petitions, the Consumer and Governmental Affairs Bureau waived the three-way calling requirement for all TRS providers for one year.

On November 30, 2004, the FCC released a request for comment on the impending expiration of this waiver.² Ultratec, Sprint and Hamilton Relay, Inc. ("Hamilton") do not believe

¹ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities: Americans with Disabilities Act of 1990*, Second Report and Order, Order on Reconsideration and Notice of Proposed Rulemaking ("Second Improved TRS Order"), CC Docket No. 98-67, CG Docket No. 03-123, FCC 03-112, 18 FCC Rcd 12379, released June 17, 2003 at ¶73, adding 47 C.F.R. §§64.601(16) and 64.604(a)(3)(vi).

² *Federal Communications Commission Seeks Comment On Expiration Of Waiver Of Three-Way Calling Requirement For Providers Of Telecommunications Relay Services*, DA 04-3709 (November 30, 2004).

that the FCC needs to renew the three-way calling waiver in its entirety. Relay consumers have been able to and should continue to be able to participate in three-way and conference calls. Rather, we request that the FCC clarify that the three-way calling obligation is met when parties to a relay call are able *to participate in* three way or conference calling, even if the TRS providers handling these calls are not able to set up these calls themselves. CapTel services, as well as other TRS services provided by Sprint and Hamilton, are already in compliance with this interpretation of the FCC’s new three-way calling standard.

The justifications for this interpretation of the three-way calling rule were contained in the December 11, 2003 Request for Clarification filed by Ultratec and Sprint, and in comments filed separately by Hamilton on October 20, 2003 (at 5). These justifications have not changed and are again summarized below.

II. The FCC’s Second Improved TRS Order Does Not Specify the Manner in Which Three-Way Relay Calls Must Be Set Up.

The FCC has never dictated a prescribed method of offering the three-way calling feature. Rather, the Second Report and Order that created this mandate stated that three-way calls are “*generally* set up in one of two ways” – by having the CA set up the call at the relay center or by having the TRS user “connect to two telephone lines from his or her premises by using the telephone’s switch-hook (or ‘flash’) button.”³ The Order does not exclude alternative means of initiating these calls, so long as the ultimate objective – that relay users be able to converse with more than one party during a telephone call through the relay service – is achieved. Nor does anything in the wording of the actual rule itself specify the manner in which the three-way connection is to be made. Rather, the rule simply defines three-way calling as “[a] TRS feature that allows more than two parties to be on the telephone line at the

³ Second Improved TRS Order at ¶73 (emphasis added).

same time with the CA,”⁴ and merely directs TRS providers “to provide . . . three-way calling functionality.”⁵ By the Order and the letter of this mandate, CapTel relay services, as well as both Sprint’s and Hamilton’s TRS services, are already in compliance with the three-way calling requirement.

III. It is Not Technically Feasible for CapTel Users to Set Up Three-Way Relay Calls From Their Captioned Telephone Devices or for Communication Assistants to Set up These Calls from CapTel Centers.

With the exception of two-line CapTel,⁶ CapTel technology does not permit CapTel users to set up three-way calling from their captioned telephone devices. The reason for this is that one-line CapTel service uses simultaneous voice and data protocol based on the V.32 bis standard.⁷ This results in the CapTel technology being dependent on a constant data connection to remain connected with the other party. During a CapTel call, if the individual using the captioned telephone attempts to establish a three-way call using the switch-hook functionality, the data connection will be disrupted and his or her device may disconnect from the other party. In addition, if a CapTel user has conference calling capabilities and attempts to conference in a third party from his or her CapTel device, the third party will only hear data connection noise.

Having a CapTel CA initiate the three-way calling feature is also inconsistent with CapTel technology, as the very nature of this service is that it is “designed so that the user directly calls the other party to the call, with the CA transparent both in the set up and during

⁴ 47 C.F.R. §64.601(16).

⁵ 47 C.F.R. §64.604(a)(3)(vi).

⁶ Two-line CapTel allows users to use their phones exactly like conventional telephone users. Because there are two lines, the three-way call may be set up by the CapTel user on the primary line without interrupting the data connection made over the second line. The Commission now has before it a petition requesting the authorization of interstate reimbursement for two line captioned telephone services, filed on December 6, 2004.

⁷ The Commission acknowledged this fact in its declaratory ruling authorizing reimbursement for CapTel services. *In the Matter of Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Declaratory Ruling (“CapTel Declaratory Ruling”), CC Dkt 98-67, FCC 03-190 (released August 1, 2003) at ¶53.

the call.”⁸ CapTel calls do not provide any means of allowing users to converse with CAs during call set-up or otherwise. The Commission itself has emphasized this is one of the most attractive features of the CapTel system as it makes the CA “completely invisible” to both CapTel parties.⁹ Yet it is this very feature that makes it impossible for the CapTel center to set up a three-way call.

IV. Three-Way Calls May be Set Up by TRS Users Who Use a Switch Hook on Their Conventional Telephones or by TRS Users Who Use a Conference Bridge.

Although we maintain that the method used to initiate three-way calling is irrelevant, even if the FCC were to interpret its Second Improved TRS Order to require one of the two call set-up methods mentioned in that Order, CapTel and other TRS services provided by Hamilton and Sprint would be in compliance with the new rule. One of the methods that is suggested by the FCC is for “the TRS user” to set up three-way calls using a switch-hook feature. The Order does not specify which TRS user must provide this function, and thereby leaves open the possibility for this responsibility to fall to any one of the TRS users to a three-way CapTel call. So long as one of the individuals to the call has a conventional telephone with a switch-hook feature, all participants to the CapTel call or TRS calls in general can participate in the conference call, and compliance with the FCC’s mandate is achieved. Once the three-way call is set up in this fashion, the individual using the captioned telephone equipment can then either dial into or receive the call along with the other participants to the call.

Alternatively, if the FCC wishes to ensure that the CapTel user him or herself be able to initiate the call, that may be done as well. Although the technical infeasibility of using a switch-hook function during a captioned call – because of the resulting break in the data

⁸CapTel Declaratory Ruling at ¶¶48, 50.

⁹ CapTel Declaratory Ruling at ¶49.

transmission – makes it pointless for a CapTel user to purchase the three-way calling feature, the CapTel user *is* able to purchase and successfully set up the three-way calling feature through a common carrier on a call-by-call basis through a conference bridge service. Once the conference bridge is set up, all parties can dial into the designated conference bridge telephone number. Traditional TRS users may achieve the same result using a conference bridge feature.

After a three-way call is set up through either of the above methods, the CapTel or TRS CA is able to successfully process the call and a CapTel or TRS user can effectively participate in the call. In fact, because CapTel calls use speech recognition technology, three-way calls handled through CapTel relay services are often processed far more efficiently and effectively than through traditional text-to-voice TRS.

V. Other Parties Have Supported Flexibility in the Manner of Setting up Three-Way Calls.

Other parties to this proceeding have similarly interpreted the three-way calling mandate to allow flexibility in the specific manner by which these calls can be set up. These parties have generally looked to the overall goal – to provide three-way calling to relay users – and have concluded that so long as that objective is achieved, the particular manner in which these calls are set up is not relevant. AT&T has sought clarification by the Commission that the set up of these calls need not be performed by TRS centers.¹⁰ Similarly, SBC has noted that it does not interpret the FCC’s mandate to require that TRS providers be able to set up three-way calling through the CA *and* through the end user’s flash hook.¹¹ SBC agrees with AT&T that it may be technically

¹⁰ AT&T Petition For Limited Reconsideration and For Waiver (“AT&T Petition”) at 8 (September 24, 2003). Specifically, AT&T explained that although end-users may initiate three-way calls by bridging two lines together via customer premises equipment or through a customer calling service (CCS) provided by a local telephone company, its TRS centers did not have the ability to use the CCS feature of the local network to set up the two legs of these calls. AT&T indicated that making the necessary modifications to set up these calls via its relay centers would necessitate the resolution of a number of outstanding issues. AT&T requested a waiver of the deadline for three-way calling until such time that the Commission resolved these various issues.

¹¹ SBC Comments at 2 (October 20, 2003).

infeasible for CAs to have to set up three-way calls, and asks the Commission to clarify that compliance with the FCC's rule may be achieved so long as a TRS provider "will "facilitate the call once the TRS user has connected to two telephone lines using the flash button."¹² As noted above, insofar as one of the TRS users to a CapTel call or another type of TRS call is able to set up the three-way call using the switch-hook, under this interpretation, compliance with the new mandate can be easily achieved for these calls.

It is important to note as well, that TDI, the nation's leading consumer organization representing the telecommunications needs of people who are deaf and hard of hearing, has not opposed the above interpretations of the three-way calling mandate. TDI notes that "[f]or purposes of functional equivalence, it is not important which of the two ways identified in the Second Report and Order a TRS provider chooses to provide three-way calling. What is critical is that every TRS provider actually provides three-way calling capability."¹³

VI. Conclusion and Request for an Expedited Decision

The underlying purpose of the FCC's three-way calling mandate is to ensure that all TRS users be provided with functionally equivalent telephone service, which includes three-way calling. Ultratec, Sprint and Hamilton jointly maintain that a complete TRS waiver for three-way calling is not necessary, because one-line CapTel relay users and other TRS users are already able to participate in three-way calls in at least one of two ways: the CapTel user or a user of another TRS service can initiate the call through a conference call bridge arrangement or all CapTel relay participants or users of another TRS service can join in a call that has been set up by one of the TRS users to the call (through custom calling features provided by a local exchange carrier or through a conference bridge).¹⁴ Through these

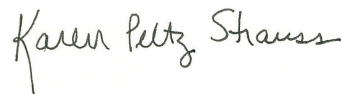
¹² Id.

¹³ TDI Comments at 8 (October 30, 2003).

¹⁴ Again, two-line CapTel users are also able to set up these calls to the exact extent that conventional voice telephone users are able to do so.

comments, we merely seek confirmation from the Commission that FCC rules do not dictate the manner in which the three-way feature must be set up and that, for this reason, all CapTel services and other TRS services provided by Sprint and Hamilton are in compliance with the three-way calling mandate. Insofar as the present waiver is set to expire by February 24, 2005, we jointly seek an expedited ruling on this issue.

Respectfully submitted,



Pamela Holmes
Director of Consumer and Regulatory
Affairs
Ultratec, Inc.
450 Science Drive
Madison, WI 53711
(608) 238-5400

Karen Peltz Strauss
KPS Consulting
2120 L Street, N.W.
Washington, D.C. 20037
(202)-478-6148
kpsconsulting@starpower.net

Legal Consultant for Ultratec

Sprint Corporation
Michael B. Fingerhut
401 9th Street, NW
Suite 400
Washington, D.C. 20004
(202)-585-1909
michael.b.fingerhut@mail.sprint.com

Hamilton Relay, Inc.
David A. O'Connor
Holland & Knight
2099 Pennsylvania Avenue, NW
Suite 100
Washington, D.C. 20006
(202)-828-1889
david.oconnor@hklaw.com

Its Attorney

Its Counsel

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